

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : EXPEDITED PROCEDURE
: Response under 37 CFR 1.116

Michael LADWIG et al. : Confirmation No. 2277

U.S. Patent Application No. 10/795,976 : Group Art Unit: 2624

Filed: March 10, 2004 : Examiner: Perungavoor, Sathyanaraya V.

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RESPONSE UNDER RULE 116

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is submitted in reply to the Final Office Action mailed May 28, 2008, and only remedies the deficiencies of the previously filed Declaration.

Claims 1-21 are pending in this Application.

Applicants respectfully request that Declaration under 37 CFR 1.132, filed herewith, be entered to place this application in condition for allowance. Entry of the Declaration is proper since the Declaration: (a) places the application in condition for allowance (for the reasons discussed herein); and (b) does not raise any new issue requiring further search and/or consideration (since the Declaration only remedies the deficiencies of the declaration previously filed).

As declared, subject matter disclosed but not claimed in *Stalcup et al.* (US 6,741,743), and relied upon by the Patent and Trademark Office in the prosecution of the instant application, was derived SOLELY from the inventor of this application sharing common inventorship with *Stalcup*, and is thus not the invention by another.

Accordingly, Applicants respectfully submit that *Stalcup* is unavailable for rejecting the instant application under either 35 U.S.C. 102 or 103, and therefore, the

rejections of claims 1-21 are improper. Withdrawal of the rejection is respectfully requested.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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